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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,646	06/27/2003	Guyton P. Swindell	A8973	2684
23373 7590 06/19/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER PHAN, THIEM D	
			ART UNIT 3729	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/607,646

Applicant(s)

SWINDELL ET AL.

Examiner

Tim Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The amendment filed on 04/11/07 has been fully considered and made of record.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US 5,696,864) in view of Forrester et al (US 5,867,624).

**With regard to claim 6,** Smith et al teach a method for use in tapping into an above ground communications transmission cable having multiple fiber optic strands comprising:

- applying a clamp (Fig. 1, 21 & 22) to a first portion of a first fiber optic cable (Fig. 1, 18), except for having a self-supporting fiber optic cable;
- using a bail (Fig. 1, 12) to connect the clamp to a support structure (Fig. 1, 14);
- connecting a splice closure (Fig. 1, 10) to the bail;
- connecting an aerial splicing platform (Fig. 7, 66) to the bail (Fig. 7, 12);

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- splicing (Fig. 7, 122 & C; col. 5, lines 42-49; col. 6, lines 1-13) a second portion of the first fiber optic cable to a second fiber optic cable (Fig. 1, 112) in the splice closure;
- wherein said fiber optic cable does not pass through said bail.

Forrester et al teach a method of storing surplus fiber optic cable above ground by using an all-dielectric, self-supporting (ADSS) fiber optic cable (Col. 2, lines 36 & 37) wherein said fiber optic cable does not pass through the portion of bails (Fig. 9, items 20 & 22), in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath (Col. 1, lines 7-11).

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Smith et al by applying the self-supporting (ADSS) optical cable, as taught by Forrester et al, in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath.

**With regard to claim 7,** Smith et al in view of Forrester et al teach the claimed invention including the self-supporting (ADSS) fiber optic cable (Forrester et al; col. 2, lines 36 & 37) and the teaching by Smith et al that the splice closure (Fig. 1, 10) is positioned away from the clamp (Fig. 1, 21 & 22) to maintain a minimum bend radius in the first fiber optic cable (Fig. 1, 110).

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Smith et al by applying the self-supporting (ADSS) optical cable, as taught by Forrester et al, in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath.

**With regard to claim 8,** Forrester et al teach an all-dielectric, self-supporting (ADSS) fiber optic cable (Col. 2, lines 36 & 37).

**With regard to claim 9,** Smith et al teach a method for use in tapping into an above ground communications transmission cable having multiple fiber optic strands including the in-line and butt splice (Fig. 7, C) of the optical cable strands (Fig. 7, 122) without severing the first fiber optic cable (Fig. 7, only 122 & C; col. 5, lines 42-49; col. 6, lines 1-13), which reads on applicants' claimed invention.

Forrester et al teach the process of working on aerial fiber optic cable, including the in-line and butt splice (Col. 7, lines 9-13) of the ADSS optical cable (Fig. 9, 10) in order to have the advantage of strength and application in close proximity to electrical power line (Col. 1, lines 7-11).

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Smith et al by applying the working of ADSS optical cable, as taught by Forrester et al, in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath.

**With regard to claim 10,** Smith et al teach that the splice points (Fig. 7, 122 & C; col. 5,

lines 42-49; col. 6, lines 1-13) or slack coils are not predetermined prior to applying the clamp (Fig. 1, 21 & 22) to a first portion of a first fiber optic cable and using a bail (Fig. 1, 12) to connect the clamp to a support structure (Fig. 1, 14) as it further requires a splice/table stray (Fig. 6, 66; col. 4, lines 21-27) hanging on the bail to work on the optical cable.

**With regard to claim 12,** Smith et al teach a method for use in tapping into an above ground communications transmission cable having multiple fiber optic strands comprising:

- applying a clamp (Fig. 1, 21 & 22) to a first portion of a first fiber optic cable (Fig. 1, 18), except for having a self-supporting fiber optic cable;
- using a bail (Fig. 1, 12) to connect the clamp to a support structure (Fig. 1, 14);
- connecting a splice closure (Fig. 1, 10) to the bail;
- connecting an aerial splicing platform (Fig. 7, 66) to the bail (Fig. 7, 12);
- splicing (Fig. 7, 122 & C; col. 5, lines 42-49; col. 6, lines 1-13) a second portion of the first fiber optic cable to a second fiber optic cable (Fig. 1, 112) in the splice closure;
- wherein said bail is not connected to said first fiber optic cable.

Forrester et al teach a method of storing surplus fiber optic cable above ground by using an all-dielectric, self-supporting (ADSS) fiber optic cable (Fig. 9, 10; col. 2, lines 36 & 37) wherein the portions of bail (Fig. 9, items 20 & 22) are not connected to said ADSS fiber optic cable, in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath (Col. 1, lines 7-11).

It would be obvious to one of ordinary skill in the art at the time the invention was made

to modify the method of Smith et al by applying the self-supporting (ADSS) optical cable, as taught by Forrester et al, in order to have the advantage of strength and application in close proximity to electrical power line, due to its strong, dielectric sheath.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al in view of Forrester et al and further view of Applicants' Admitted Prior Art, hereinafter AAPA.

Smith et al in view of Forrester et al teach a method for use in tapping into an above ground communications transmission cable having multiple fiber optic strands, which reads on applicants' claimed invention; except for having the splicing method as a taut sheath splicing method.

The AAPA teaches the technique of "taut sheath splicing" on steel cable supporting fiber optic cables extruded together into a 'figure 8" form in order to enable an user to splice in the drop cable without predetermining slice points or slack coils (AAPA, page 1, paragraph 0003) and to drop service to specific customers.

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Smith et al in view of Forrester et al, by applying the "taut sheath splicing", as taught by AAPA, in order to facilitate the fiber optic cable's drop service to specific customers.

*Response to Arguments*

5. Applicants' arguments filed 04/11/07 have been fully considered but they are not persuasive for the following reasons:

With respect to claims 6 and 12, applicants' assertions that the prior art Smith et al do not teach nor suggest "a self-supporting fiber optic cable" (Claims 6 & 12; Remarks, page 5, last 4 paragraphs) are traversed because the new ground of rejection of Smith et al in view of Forrester et al do indeed teach these limitations as filed in section 3, with regard to claims 6 and 12, above.

Applicants assert that there is no need for Smith et al to use a self-supporting cable due to close proximity to a power line as in Page 6, 2<sup>nd</sup> paragraph. The examiner disagrees as the power line (Fig. 7, 16) is a private, filtered line used to power the Optical Network Unit (ONU; Fig. 1, 23) in order to convert the optical data signal from fiber cable (Fig. 1, 18; col. 3, lines 42-47) into electrical signal for customer delivery site. Therefore the whole circuitry of Fig. 1 must be isolated from the public, unfiltered, electrical power line to households or industry, where frequent surges or spikes can electromagnetically affect the data signal of Smith et al's circuitry, such as the ONU (Fig. 1, 23), the voltage line 16 and ultimately the converted data signal line 18. It would be obvious to apply the ADSS cable around the enclosure without voltage line needed for an ONU as taught by Forrester et al to the method of Smith et al in order to avoid any interference or crosstalk from high electrical power line in the proximity.

The remainder of the claims, i.e. Claims 7-11, stand rejected with the reasoning for their rejections carefully articulated in the previous or instant Office Action and in view of the



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responses in the paragraphs above.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Applicants' amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 571-272-4568. The examiner can normally be reached on M & Tu, 6AM - 2PM, and W & Th, 9AM – 5PM.

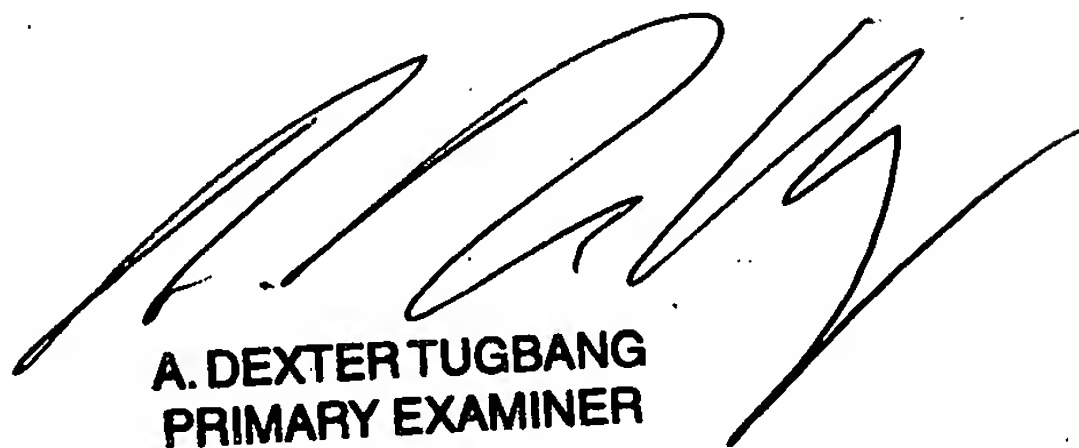
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tim Phan  
Examiner  
Art Unit 3729

tp  
June 14, 2007



A. DEXTERTUGBANG  
PRIMARY EXAMINER